

Minutes
State Board of Education Special Session
Thursday, December 22, 2005

The Arizona State Board of Education held a Second Special Session at the Arizona Department of Education, 1535 West Washington, Phoenix, Arizona. The meeting was called to order at 1:40PM.

Members Present

Mr. Jesse Ary
Mr. Bill Estes, Jr.
Ms. JoAnne Hilde
Superintendent Tom Horne
Ms. Anita Mendoza

Members Absent

Dr. Michael Crow
Dr. Matthew Diethelm

Members participating via telephone

Dr. Vicki Balentine
Ms. Joanne Kramer
Dr. Karen Nicodemus
Ms. Cecilia Owen

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

Ms. JoAnne Hilde, Vice President, welcomed the new members of the State Board of Education, Mr. Bill Estes, Jr., and Dr. Vicki Balentine.

1. Presentation, Discussion and Consideration to Approve Proposed Modifications to the Administration of the Failing Schools Tutoring Fund

Ms. Hilde introduced the item and stated that the following was noted by Dr. Pedicone at the last meeting:

- We are failing to meet the needs of the students who need tutoring
- Information is going out to the field
- Money is available
- Percentage of students and number of schools participating is not what we would have hoped

Ms. Hilde reported that based on the above factors, she invited school leadership to a meeting to discuss the tutoring fund which was attended by:

- Dr. Jack Erb, Peoria Unified School District
- Mr. William Allsbrook, Superintendent, Kayenta Unified School District
- Arizona Department of Education personnel, including
 - Dr. Karen Butterfield, Associate Superintendent, Academic Achievement, and
 - Ms. Debby Francis, Education Program Specialist, Title I/State Tutoring Coordinator
- State Board members Ms. Hilde and Ms. Mendoza

Ms. Hilde reported that the result of this meeting is the attached *Summary of Proposed Modifications to the Administration of the Failing Schools Tutoring Fund*.

Ms. Hilde also noted the following:

- There is no correlation between monies available and the number of students who need impacting
 - Students who would qualify as a junior or senior
 - Students who are currently attending failing schools
- We have two full semesters of experience around usage and usage has been small

- It was not inappropriate to make the recommended changes as \$7.5M are now available for tutoring
 - Last semester about \$67K was used
 - Nearly 90% of students who had tutoring progressed at least one level

Mr. Yanez added that members received a document that highlights the recommended changes discussed at the last meeting which could be useful in today's discussion.

Further discussion and comments followed:

- Suggestions look like they have great potential for improving utilization
- Nothing in statute prohibits a teacher in a failing or underperforming school from providing tutoring services to their students
 - In the first round of tutoring that the State Board initiated, there was a policy decision that teachers in a failing or underperforming school could not provide tutoring services to their students
 - As the program moves forward into next semester with the changes proposed today the Board has the ability to change that policy
 - The working group recommended that this change be made and teachers who may be highly qualified in underperforming or failing schools could provide tutoring services to their students
 - The HOUSSE Rubric is used to determine whether or not a teacher is highly qualified
- Option under #5 should state that this is intended for seniors who are eligible for summer testing
- Superintendents understand that they could encumber the funds in June to complete the program for summer testing in July
- Summary should specify that supplemental means tutoring outside the core content area, instruction period
 - Supplemental instruction could then be given during the school day in high school as long as it is not given during the content core class time
 - Proposal submitted by Ms. Francis, which is included in the materials packet, delineates these provisions
- LEA will not be paid for tutoring services if the student fails to pass AIMS after tutoring, therefore the teacher would not be paid
- ADE is going to communicate that as long as there is measurable improvement in any section based on improved scores and instruction for a specific standard the LEAs will be paid
 - Parent and provider must agree on the desired percentage of improvement to meet the required evidence of improvement (incremental growth)
 - Realistic goals should be set
 - Parent can also use a private provider
 - District can choose to pay the teacher whether or not the student demonstrates improvement
- Certificate agreement with parents, also posted on the web site, states that the parents and tutor will select the most important skill or concept for which they will be held accountable
- The tutor will indicate the student's progress on the online reporting form
 - Indicators will identify whether an oral or written measurement was used

Motion by Ms. Mendoza to approve the proposed modifications to the administration of the Failing Schools Tutoring Fund as presented. Seconded by Mr. Ary. *Motion passes.*

Ms. Mendoza noted that the committee did a wonderful job in addressing what could be looked at regarding the wording of the legislature. She also added the following points:

- We must acknowledge that we are not reaching and gaining participation from a large percentage of students who are failing
- There needs to be increased involvement
- There are 19,500 seniors still not passing
- Need to communicate to the legislature that the Board is looking for more open wording in the bills
 - Department is suggesting changes to legislature such as:
 - Eliminating the requirement to return tutoring funds
 - Bringing the tutoring to students who have failed in eighth grade in order to have more time to develop them
 - Department is open for other suggestions to bring to the legislature in this matter
- Need to get the money to the schools to assist the students
- New action today should enhance the process
- Districts can determine how much to pay the teacher/tutor and whether to withhold for ERE, etc.
- Not unusual for districts to negotiate with teachers to establish a flat rate
 - Varies from district to district
 - Board needs to receive information via survey regarding how these funds are distributed by districts

Ms. Owen excused herself from the meeting at 2:35 PM.

2. Presentation, Discussion and Consideration to Develop Legislative Recommendations to Comply with Court Order Relating to Flores v. State of Arizona, et. al. Pursuant to A.R.S. §38-431.03 (A) (3) and (4), the Board May Vote to Go Into Executive Session for Consultation and Legal Advice and/or for Instructing the Board's Attorneys Regarding the Board's Position in Connection with this Matter.

Ms. Hilde explained that when she heard about the judge's action statements in this case she began to think about the Board's responsibility for the education of children in Arizona's public school system. She added that the list of responsibilities to the State Board in Title 15 is extensive, including curriculum, assessment, the assessment instrument, school labels, etc. Ms. Hilde noted that the Board agreed in its discussion in August to become more active legislatively, begin to develop a stronger voice, get pro-active on some of these issues instead of sitting back and waiting. Ms. Hilde suggested that this is one of the issues that the Board needs to look at but the timeline is so short that there is not time to be a party in any kind of belief statement regarding the entire program. She noted that the Board should state what should be happening in this regard. Ms. Hilde stated that she talked with some administrators and Ms. Nadine Basha who recommended that she talk with Dr. Paul Koehler, Director, Policy Programs, WestEd, who provided the overview included in the materials packet. The overview was developed from a brief survey by WestEd of other states that are dealing with law cases around English Language Learners (ELLs). WestEd found that in 23 states, in some formats, most are around adequacy in funding, in general. Arizona is the only state with a case that deals specifically with ELLs. Ms. Hilde emphasized that she was gathering information in this regard as an individual.

Ms. Hilde asked the Board to discuss allowing Mr. Yanez and Board leadership to continue to pursue input in key concepts and look at the message that could be sent to the Legislature.

Further discussion ensued and the following comments were shared:

- Department is involved with the legislative leadership in developing a legislative package
- Court demands a scientific basis for amount being allocated

- Study was done by the National Conference of State Legislatures (NCSL) which was a terrible piece of work in the opinion of many people and the leadership of the legislature complained to the NCSL and the NCSL waived a portion of its fee
 - Legislature has sought an alternate way to develop a scientific basis for determining the amount of money to be spent which is a very complex area
- This case calls for a 15 day deadline after the session opens
- Superintendent Horne opposes the Board coming in at this point as it is hard to come up with ideas in a short timeline
 - This is a complex, highly political issue with a very short timeline
- The Board must be an integral part and cannot sit on the sideline
 - The Board could come up with something in 15 days even if it is to state that the Board supports the court order
- It has been suggested in the past that members of the Board meet with members of the legislature
 - This could be a stepping stone in making the state aware that the State Board of Education is a strong player
- Disturbing that we don't know how to move from zero base
- Recognize the hours of work done by Superintendent Horne and understand his position
- It feels like some of the decisions being made are not including the three aspects of the State Board, the Department of Education and the people/students of Arizona
- Need to discuss whether something is doable and meeting the needs
- Have major concerns for teachers of ELLs
- State Board is a political body and should take a position regarding what is thought to be in the best interest of the constituents
- Members should gather input from the field
- State Board and others need to be involved
- Defendants in this case are the State Board of Education, the Superintendent of Public Instruction, and the State
- Superintendent Horne does not agree with the court and will appeal
- If all three parties want to appeal, presumably the Attorney General would handle it, however, appeal is not the subject of today's meeting and would have to be deferred to Ms. Susan Segal, Assistant Attorney General
- In talking with people in the field, we may find some solutions apart from this case and may or may not have a price tag on them, i.e., scheduling, techniques, smaller classes, etc.

Motion by Ms. Mendoza that the Board develop recommendations that may include legislative recommendations regarding compliance with the court order relating to Flores v. State of Arizona, and that the Board's Executive Director in cooperation with Board leadership, develop these recommendations for Board approval. Seconded by Mr. Ary. *Motion passes. Superintendent Horne voted no.*

Superintendent Horne noted that the agenda presented by the Department is at least in part a joint agenda and that we are on the road to joint efforts at the legislature.

Ms. Hilde explained that the Attorney General's Office has requested a discussion with the State Board regarding whether the State Board wants to be a party to this appeal. This discussion will be held on Tuesday, December 27, 2005 at 11:00AM. Board staff will contact all members to confirm their availability.

3. ADJOURN

Motion to adjourn by Mr. Estes. Seconded by Mr. Ary. *Motion passes.* Meeting adjourned at 3:06PM.